



City of Westminster

Licensing Sub-Committee Report

Item No:	
Date:	11 June 2018
Licensing Ref No:	18/02695/LIPV - Premises Licence Variation
Title of Report:	Formasina Basement And Ground Floor 18 Formosa Street London W9 1EE
Report of:	Director of Public Protection and Licensing
Wards involved:	Little Venice
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Mrs Shannon Pring Senior Licensing Officer
Contact details	Telephone: 020 7641 3217 Email: spring3@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	Variation of a Premises Licence, Licensing Act 2003		
Application received date:	12 March 2018		
Applicant:	FBT Consulting Ltd		
Premises:	Formasina		
Premises address:	Basement And Ground Floor 18 Formosa Street London W9 1EE	Ward:	Little Venice
		Cumulative Impact Area:	No
Premises description:	The premises currently operates as a cafe/restaurant.		
Variation description:	According to the application, the variation seeks to vary the premises licence to amend the opening time and the hours for retail sale of alcohol to better suit the business needs.		
Premises licence history:	The premises currently benefits from a premises licence. Full details of the premises licence history can be found at Appendix 2 of the report.		
Applicant submissions:	There are no submission from the Applicant.		
Plans	Plans are available to view upon request to the Licensing Authority and they will be made available at Licensing Committee.		
NOTE	The Applicant has amended the application in relation to the terminal hour for the Sale of Alcohol for Sunday.		

1-B Current and proposed licensable activities, areas and hours						
Sale by Retail of Alcohol – Original application						
On or off sales		Current :			Proposed:	
		Both On and Off			No change	
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	10:00	22:30	16:00	23:00	Ground Floor	No change
Tuesday						
Wednesday						
Thursday						
Friday			12:00	23:30		
Saturday						
Sunday	12:00	22:30	12:00	23:30		

Sale by Retail of Alcohol – Application amended during consultation						
On or off sales			Current :		Proposed:	
			Both On and Off		No change	
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	10:00	22:30	16:00	23:00	Ground Floor	No change
Tuesday						
Wednesday						
Thursday						
Friday			12:00	23:30		
Saturday			12:00	22:30		
Sunday	12:00	22:30	12:00	22:30		

Hours premises are open to the public						
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	10:00	22:30	16:00	23:00	Ground Floor	No change
Tuesday						
Wednesday						
Thursday						
Friday			12:00	23:30		
Saturday			12:00	22:30		
Sunday	12:00	22:30	12:00	23:30		

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Environmental Health Service (Withdrawn)
Representative:	Mr Dave Nevitt
Received:	10 April 2018
<p>I wish to make Representations on the following grounds: Representation is made in relation to the application, as the proposals are likely to increase Public Nuisance and may impact upon Public Safety.</p> <p><i>Following the Applicant's proposal of conditions and the Applicant's acceptance of the conditions proposed by the Police, EH have withdrawn their condition.</i></p>	
Responsible Authority:	Metropolitan Police Service (withdrawn)
Representative:	PC Toby Janes
Received:	11 April 2018
<p>It is our belief that if granted the application would undermine the licensing objectives in relation to the prevention of crime and disorder as there are insufficient conditions within the operating schedule.</p> <p>We have concerns that this application will cause further policing problems in an already demanding area.</p> <p>Police propose the following conditions are attached to your operating schedule. These conditions will address the concerns of Police in relation to the prevention of crime and disorder.</p> <ol style="list-style-type: none"> 1.The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period. 2. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested. 3. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification 	

cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

4. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) any faults in the CCTV system (f) any refusal of the sale of alcohol (g) any visit by a relevant authority or emergency service.

Correspondence between the Applicant and the Police:

We would like to confirm to you we are happy to include the below conditions proposed by the police to our operating schedule.

In regards to the CCTV we have the system already operating and covering every angle of entrance and exit of the premise. We will prepare the incident log starting from now and also we will put the challenge 25 in place.

We look forward to hear back from you.

Following the Applicant's agreement of the proposed conditions, the Police have withdrawn their representation.

2-B Other Persons

Received:	10 April 2018
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9:57 PM on 10 Apr 2018 The proposed extension on Sundays to 23:30 is beyond core hours and so should be refused; instead the standard closing time of 22:30 should be agreed.

Owing to the vicinity of residential dwellings nearby, and the fact that Formasina is located in a narrow street, special consideration should be given to controlling noise after 10pm. Clients of Formasina should not be allowed to smoke or drink nearby after 10pm on any evening. In addition, a condition of the license should be that all external doors (to the front onto Formosa Street, and to the side onto Castellain Road) should remain closed after 10pm.

In the past tables and chairs at this site have been placed around the corner onto Catellain Road. I suggest that a condition of the license is that this is never permitted.

Received:	26 March 2018
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9:20 PM on 26 Mar 2018 I object to the application to serve alcohol on yet another premises to such a late hour.

Formosa Street is a narrow road with dozens of flats above the commercial premises and this is a predominantly residential area.

We already have many businesses serving alcohol into the late evening and it seems to be growing and growing. Now we have the Prince Alfred pub, the Red Pepper restaurant and Boca Cha Cha restaurant and nightspot - all with outside seating as does the Petite Gourmet restaurant. We recently had the Real Ale off license granted permission to serve alcohol on premises until late evenings.

The council must decide if this is a residential area or a nightspot where people view it as a destination to drink alcohol. Local residents are being constantly inconvenienced and kept awake by loud and drunken behaviour from all of these businesses and the trend seems to be to allow more and more businesses to serve alcohol until well past the time children are meant to be sleeping. Flats are literally feet away from these businesses. We would very much appreciate the council balancing the needs of local residents with the desire to have a vibrant business area. We have put up with the granting of many late night alcohol related licensing applications. Please may we ask that you think also about us as people who must live with this night after night. We also deserve to enjoy peace and quiet in the evenings. The more businesses allowed to serve alcohol until past 8pm, the louder and more unpleasant it is for us who do not always wish to hear shouting and singing as we are trying to sleep.

Received:	13 May 2018
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10:07 PM on 13 May 2018 I do not agree with the proposed change in hours. They should not deviate from the core hours. This is a mainly residential area & I would be very concerned about additional noise in a narrow street, with the business in close proximity to many residents. Thank you.

Received:	05 April 2018
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As a recognised amenity society by Westminster City Council, we are officially charged with working towards the preservation and enhancement of the architectural and environmental quality of Little Venice, Maida Vale and the Paddington Waterway area (including planning and licensing issues). We are concerned with the well-being and sense of community of its residents, including those who live in the vicinity of this part of Formosa Street, which is at this point a narrow street, with residential accommodation above first floor level on either side. In this short stretch, there are already one public house, one café, three licensed restaurants (all with table licences outside), a beer shop and a newsagent with an off licence.

We consider that the hours should be kept to Core Hours on Sundays.

We recognise that this proposal is designed to provide services for locals as well as people who are not residents in this area. We consider it important to attracting people to the stretch of street which we would like to see "kept alive" but would ask that you take neighbours' views on prolonged noise into account. We should be interested to see what the views of local residents are to the longer hours, and we may wish to make some further comments on this in due course if there is concern.

Should there be a hearing, I hope to attend but if unable, will ask Richard Brown to represent us.

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:

Policy HRS1 applies	(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy. (ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies.
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4. Equality Implications

The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary, section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

4. Appendices

Appendix 1	Applicant supporting documents
Appendix 2	Premises history
Appendix 3	Proposed conditions
Appendix 4	Residential map and list of premises in the vicinity

Report author:	Mrs Shannon Pring Senior Licensing Officer
Contact:	Telephone: 020 7641 3217 Email: spring3@westminster.gov.uk

If you have any queries about this report or wish to inspect one of the background papers please contact the report author.

Background Documents – Local Government (Access to Information) Act 1972

1	Licensing Act 2003	N/A
2	City of Westminster Statement of Licensing Policy	7 th January 2016
3	Amended Guidance issued under section 182 of the Licensing Act 2003	April 2018
4	Environmental Health Service (Withdrawn)	10 April 2018
5	Metropolitan Police Service (Withdrawn)	11 April 2018
6	Representation	10 April 2018
7	Representation	26 March 2018
8	Representation	13 May 2018
9	Representation	05 April 2018

Applicant Supporting Documents

Appendix 1

There are no additional submissions from the Applicant.

Licence & Appeal History

Application	Details of Application	Date Determined	Decision
10/10775/LIPN	Application for a new premises licence	17/02/2011	Granted by Licensing Sub-Committee
13/00489/LIPVM	Application for a minor variation	12/02/2013	Refused under delegated authority
14/03005/LIPT	Application to transfer the premises licence	15/07/2014	Granted under delegated authority
15/04062/LIPDPS	Application to vary the designated premises	18/11/2015	Granted under delegated authority
17/06827/LIPVM	Application for a minor variation	12/07/2017	Refused under delegated authority
18/00023/LIPT	Application to transfer the premises licence	02/03/2018	Granted under delegated authority
18/02695/LIPV	Current application		

There is no appeal history

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AND CONDITIONS PROPOSED BY A PARTY TO THE HEARING

When determining an application for a new premises licence under the provisions of the Licensing Act 2003, the licensing authority must, unless it decides to reject the application, grant the licence subject to the conditions which are indicated as mandatory in this schedule.

At a hearing the licensing authority may, in addition, and having regard to any representations received, grant the licence subject to such conditions which are consistent with the operating schedule submitted by the applicant as part of their application, or alter or omit these conditions, or add any new condition to such extent as the licensing authority considers appropriate for the promotion of the licensing objectives.

This schedule lists those conditions which are consistent with the operating schedule, or proposed as appropriate for the promotion of the licensing objectives by a responsible authority or an interested party as indicated. These conditions have not been submitted by the licensing service but reflect the positions of the applicant, responsible authority or interested party and have not necessarily been agreed

Conditions: On Current Licence -

Mandatory:

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;

- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the operating Schedule

None

Annex 3 – Conditions attached after a hearing by the licensing authority

9. The supply of alcohol at the premises shall only be to persons intending to take a table meal there and for consumption by such a person as ancillary to their table meal.
10. The supply of alcohol shall be by waiter or waitress service only.
11. The supply of alcohol for consumption off the premises shall be by way of sealed container only.
12. Substantial food and non-intoxicating beverages shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
13. Licensable activities shall be restricted to the ground floor of the premises.
14. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
15. All windows and external doors shall be kept closed after 21:00 hours, except for the immediate access and egress of persons.
16. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
17. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
18. Patrons temporarily leaving the premises shall not be permitted to bring drinks outside with them.
19. There shall be no tables and chairs placed outside the premises.

20. The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the kerb edge, shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.
21. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
22. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours.
23. No entertainment, performance, service, or exhibition involving nudity or sexual stimulation which would come within the definition of a sex establishment in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Greater London Council (General Powers) Act 1986 (whether or not locally adopted), shall be provided.
24. There shall be no striptease or nudity, and all persons shall be decently attired at all times.

Conditions proposed by the Applicant to form part of the operating schedule

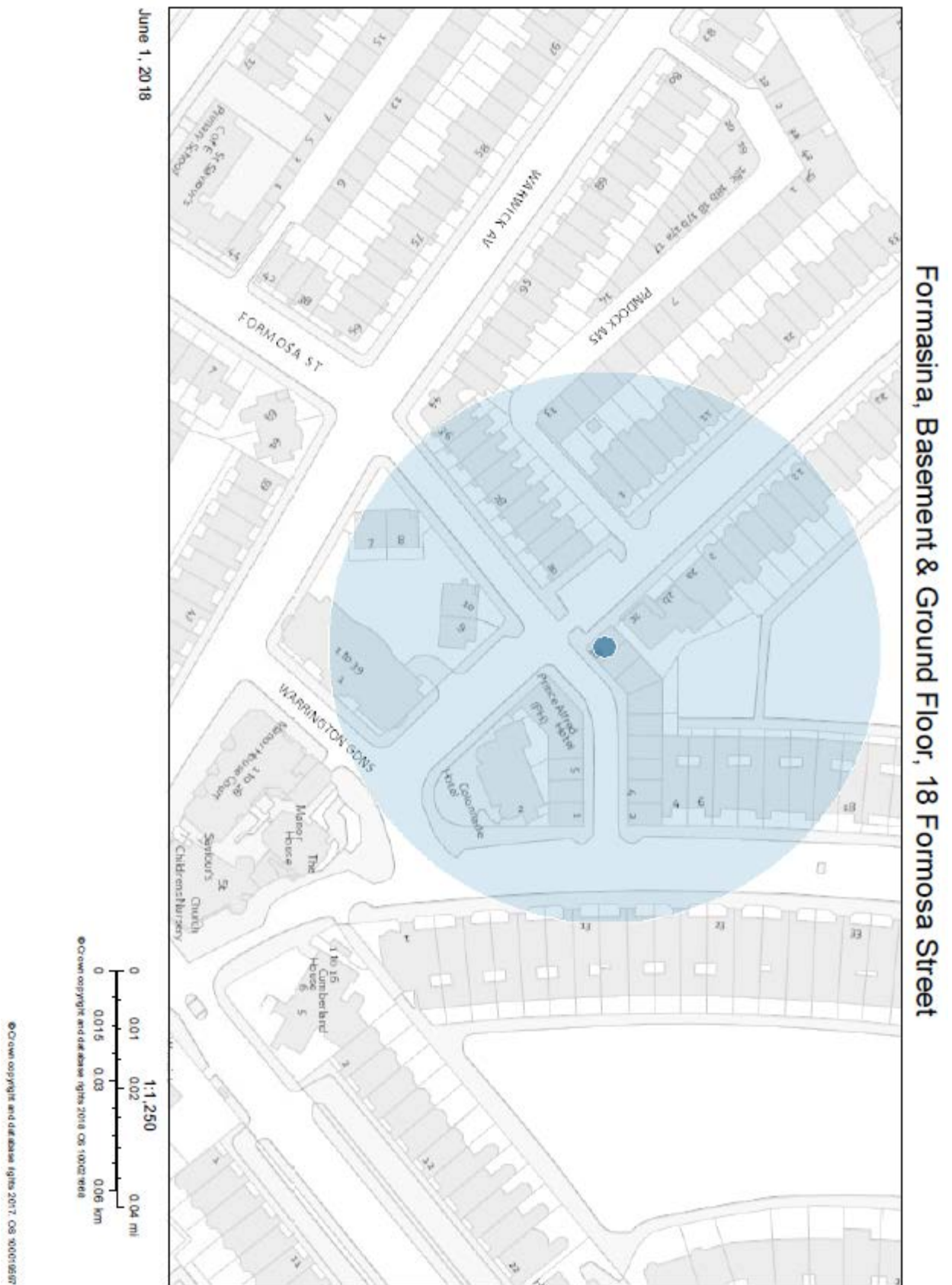
25. A clear and legible notice outside the premises indicating the normal hours under the terms of the premises licence during which licensable activities are permitted.
26. Not selling of alcohol to drunk or intoxicated customers.
27. Customers will not be sought by means of personal solicitation outside or in the vicinity of the premises.
28. Prevention and vigilance in illegal drug use at the retail unit area.
29. Staff will be well trained in asking customers to use premises in an orderly and respectful manner and prevent drinking alcohol at the retail unit.
30. Internal and external lighting fixed to promote the public safety objective.
31. Well trained staff adherence to environmental health requirements.
32. Training and implementation of underage ID checks.
33. All parts of the premises and all fittings and apparatus therein, door fastenings and notices, lighting, heating, electrical, air condition, sanitary accommodation and other installations, will be maintained at all times in good order and in a safe condition.
34. Noise reduction measures to address the public nuisance objective.
35. Prominent, clear and legible notices will be displayed at the exit requesting the public to respect the needs of nearby residents and to leave the premises and the area quietly.

36. Deliveries of goods necessary for the operation of the business will be carried out at such a time or in such a manner as to prevent nuisance and disturbance to nearby residents.
37. The Licensee will ensure that staff who arrive early morning or depart late at night (ex. for unpacking, pricing newly delivered goods) when the business has ceased trading conduct themselves in such a manner to avoid causing disturbance to nearby residents.
38. Customers will be asked not to stand around loudly talking in the street outside the premises.
39. "Challenge 25" sign which is a retailing strategy that encourages anyone who is over 18 but looks under 25 to carry acceptable ID (a card bearing the PASS hologram, a photographic driving license or a passport) if they wish to buy alcohol.
40. Well trained staff about requirement for persons' identification, age establishment etc.

Conditions proposed by the Police and accepted by the Applicant to form part of the operating schedule

41. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
42. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
43. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
44. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - d) any incidents of disorder
 - (e) any faults in the CCTV system
 - (f) any refusal of the sale of alcohol

(g) any visit by a relevant authority or emergency service.



Resident Count: 263

Licence Number	Trading Name	Address	Premises Type	Time Period
18/00023/LIPT	Formasina	Basement And Ground Floor 18 Formosa Street London W9 1EE	Restaurant	Monday to Saturday; 10:00 - 22:30 Sunday; 12:00 - 22:30
09/08178/LIPN	Amoul Deli	Basement And Ground Floor 14 Formosa Street London W9 1EE	Restaurant	Monday to Sunday; 08:30 - 23:00
09/02209/LIPRW	Dhigs	Formosa Street Post Office 12 Formosa Street London W9 1EE	Shop	Monday to Sunday; 06:00 - 21:00
18/01814/LIPDPS	Prince Alfred Public House	Prince Alfred Public House 5A Formosa Street London W9 1EE	Pub or pub restaurant with lodge	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 23:30
16/00829/LIPDPS	The Red Pepper Restaurant	Basement And Ground Floor 8 Formosa Street London W9 1EE	Restaurant	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:00
17/09346/LIPDPS	Real Ale Ltd	4 Formosa Street London W9 1EE	Shop	Monday; 10:00 - 21:30 Tuesday to Sunday; 10:00 - 22:00
13/09243/LIPDPS	Colonnade Hotel	2 Warrington Crescent London W9 1ER	Hotel, 4+ star or major chain	Monday to Saturday; 10:00 - 00:30 Sunday; 12:00 - 00:30